

Date:

(Filing No. H- )

**CRIMINAL JUSTICE AND PUBLIC SAFETY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
131ST LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 109, L.D. 168, “An Act Regarding Criminal Background Checks for the Sale, Transfer or Exchange of Firearms”

Amend the bill by striking out everything after the enacting clause and inserting the following:

**'Sec. 1. 15 MRSA §394** is enacted to read:

**§394. Criminal background checks of firearms buyers**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Buyer" means a person that intends to be the owner of a firearm following a sale, transfer or exchange.

B. "Family member" means a spouse, domestic partner, parent, stepparent, foster parent, child, stepchild, foster child or any other person related by consanguinity up to the 2nd degree. For purposes of this paragraph, "domestic partner" has the same meaning as in Title 1, section 72, subsection 2-C.

C. "Federally licensed firearms dealer" or "dealer" means a person who is licensed or is required to be licensed as a dealer under 18 United States Code, Section 923.

D. "Firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A.

E. "Law enforcement agency" has the same meaning as in Title 19-A, section 4102, subsection 7.

F. "Seller" means a person that is the owner of a firearm and intends to no longer be the owner of the firearm following a sale, transfer or exchange.

G. "Sell, transfer or exchange" or "sale, transfer or exchange" means any transaction in which ownership of a firearm changes.

**2. Requirement.** If neither the seller nor buyer is a federally licensed firearms dealer, the sale, transfer or exchange must be facilitated by a dealer in accordance with this subsection or by a law enforcement agency in accordance with subsection 3.

**COMMITTEE AMENDMENT**

1           A. If a federally licensed firearms dealer agrees to facilitate the sale, transfer or  
2           exchange of a firearm pursuant to this subsection, the dealer shall comply with all  
3           applicable requirements of state and federal laws and regulations and conduct the sale,  
4           transfer or exchange of the firearm in the same manner as if the dealer were selling the  
5           firearm from the dealer's own inventory.

6           B. A federally licensed firearms dealer that facilitates the sale, transfer or exchange of  
7           a firearm pursuant to this subsection is not considered the seller for the purposes of this  
8           section.

9           **3. Background check by law enforcement agency.** If neither the seller nor buyer is  
10          a federally licensed firearms dealer, the seller may satisfy the requirements of this section  
11          by obtaining a criminal background check of the buyer through a law enforcement agency  
12          that agrees to conduct a criminal background check for the purposes of facilitating the sale,  
13          transfer or exchange.

14          A. A law enforcement agency that agrees to conduct a criminal background check of  
15          a buyer pursuant to this subsection shall conduct the criminal background check in a  
16          manner that complies with all applicable requirements of state and federal laws and  
17          regulations.

18          B. A law enforcement agency that conducts a criminal background check to facilitate  
19          a sale, transfer or exchange pursuant to this subsection is not considered the seller for  
20          the purposes of this section.

21          **4. Exemptions.** The provisions of this section do not apply to a sale, transfer or  
22          exchange of a firearm between persons who are not federally licensed firearms dealers if:

23          A. The firearm is a curio or relic, as defined in 27 Code of Federal Regulations, Section  
24          478.11 as in effect on November 19, 2019, and the sale, transfer or exchange is between  
25          collectors of firearms as curios or relics, as defined by 18 United States Code, Section  
26          921(a)(13) as in effect on June 25, 2022, who are each in possession of a valid collector  
27          of curios and relics license issued by the United States Department of Justice, Bureau  
28          of Alcohol, Tobacco, Firearms and Explosives;

29          B. The sale, transfer or exchange is of an antique firearm, as defined in 18 United  
30          States Code, Section 921(a)(16) as in effect on June 25, 2022;

31          C. The buyer or seller is a law enforcement agency or the Department of Corrections;

32          D. To the extent the buyer or seller is acting within the course of that person's  
33          employment or official duties, the person is:

34                  (1) A law enforcement officer as defined by Title 17-A, section 2, subsection 17;

35                  (2) A corrections officer as defined by Title 25, section 2801-A, subsection 2;

36                  (3) A member of the United States Armed Forces;

37                  (4) A member of the National Guard;

38                  (5) A member of the Reserves of the United States Armed Forces;

39                  (6) A federal law enforcement officer; or

